

Remarks

Reconsideration of this Application is respectfully requested.

Upon entry of the foregoing amendment, claims 1-20 and 23-25 are pending in the application, with claims 1, 7, 8, 10, 12, and 13 being the independent claims.

Claims 21 and 22 are sought to be cancelled without prejudice to or disclaimer of the subject matter therein. New claims 23-25 are sought to be added. These changes are believed to introduce no new matter, and their entry is respectfully requested.

Based on the above amendment and the following remarks, Applicants respectfully request that the Examiner reconsider all outstanding objections and rejections and that they be withdrawn.

Rejections under 35 U.S.C. § 101

The Examiner rejected claim 21 under 35 U.S.C. § 101 because the claimed invention was allegedly directed to non-statutory subject matter. Without acquiescing to the propriety of the rejection, Applicants have canceled claim 21 for other reasons and to expedite prosecution. Accordingly, Applicants believe this rejection has been rendered moot.

The Examiner also rejected claims 1-6 under 35 U.S.C. § 101 because the claimed recitation of a use, without setting forth any steps involved in the process, allegedly results in an improper definition of a process. Without acquiescing to the propriety of the rejection, Applicants have amended claims 1-6 for other reasons and to expedite prosecution.

Applicants therefore respectfully request that the Examiner reconsider and withdraw the rejection of claims 1-6 under 35 U.S.C. § 101.

Rejection under 35 U.S.C. § 112

The Examiner rejected claims 1-6 under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as their invention.

Without acquiescing to the propriety of the rejection, Applicants have amended claims 1-6 for other reasons and to expedite prosecution.

Applicants therefore respectfully request that the Examiner reconsider and withdraw the rejection of claims 1-6 under 35 U.S.C. § 112, second paragraph.

Rejection under 35 U.S.C. § 102

The Examiner rejected claims 8 and 9 under 35 U.S.C. § 102(b) as allegedly being anticipated by WIPO Patent Application Publication No. WO 01/91401 A1 to Mantha (hereinafter "Mantha"). Applicants respectfully traverse these rejections.

The Office Action contends that Mantha discloses (emphasis added):

... the method including determining the least capable of the receivers (Page 7 lines 5-6, see "...subscriber stations 28 in system 20 that have at least a ***predetermined minimum reception quality***...") and selecting one or more parameters of the transmission so as to match the capabilities of the least capable of the receivers (Page 7 lines 6-9), see "...header 104 is packaged in a robust manner to ***increase the probability*** that subscriber stations 28 will be able to receive it [i.e. the frame error rate, or FER for subscriber stations to receive and understand header 104 is less than a level selected by the operator of system 20]...", i.e. where FER is the parameter selected to match capabilities of the least capable of the receivers).

Mantha, however, does not disclose all of the claimed elements. In particular, Mantha does not disclose "determining the *least capable* of the receivers" (emphasis added). The subscriber stations in Mantha that have "at least a predetermined minimum reception quality" are *not* equivalent to the claimed "least capable of the receivers." In Mantha, "the operator of system 20" selects the "level" of the "frame error rate, or FER" (page 7, lines 8-9), and all stations that have a frame error rate less than the one selected by the operator are able to receive and understand the header. This is done to "*increase the probability* that subscriber stations 28 will be able to receive it" (Mantha, page 7, lines 6-9, emphasis added). Clearly, this is different from the method of claims 8 and 9, which determines the one receiver in the system that is "*least capable*." While Mantha merely teaches increasing the probability that a station will be able to receive the header, the present invention teaches "determining the least capable of the receivers and selecting one or more parameters of the transmission so as to match the capabilities of the least capable of the receivers" to ensure that *all* receivers are able to receive the transmission.

Thus, claim 8 is not anticipated by Mantha. Mantha, furthermore, does not teach the claimed elements in claim 9 because claim 9 depends upon claim 8 and because of the additional distinctive features of claim 9.

Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw the rejection of claims 8 and 9 under 35 U.S.C. § 102(b).

Rejections under 35 U.S.C. § 103

The Examiner rejected claims 1-6 under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent No. 6,141,788 to Rosenberg et al. (hereinafter "Rosenberg") in view of European Patent Application No. EP 1 130 837 A2 to Chen (hereinafter "Chen") and claim 7 as being unpatentable over Chen in view of Rosenberg. Applicants respectfully traverse these rejections.

The Examiner contends (emphasis added):

Rosenberg et al. further discloses said one of the blocks contains data indicating the coding rate of a subsequent one or more of the blocks (Column 3, lines 30-41, see "...media packet...associated with this FEC packet...allows FEC packet to be associated with any of the packets before or after it..."). ***In other words, a FEC packet (i.e. forward error correction block) is associated with a media packet (i.e. contains data indicating the coding rate), which is a packet that has been forward-error-corrected,*** and the association can be with any media packet that comes before or after the FEC packet (i.e. subsequent one or more of the blocks).

Rosenberg, however, does not disclose the herein claimed elements. In particular, Rosenberg does not disclose "indicating the coding rate of a subsequent one or more of the blocks using data contained in said one of the blocks." Contrary to the Examiner's contention, media packets in Rosenberg do ***not*** include the FEC coding rate but rather the raw user data and the real time transmission protocol header (Rosenberg, col. 2, lines 20-34). Rosenberg teaches a system where each FEC packet includes a function *f* used for the ***same block*** (See, e.g., Rosenberg column 1, lines 48-59). The FEC packets in Rosenberg each include a FEC header and a FEC payload. The FEC function *f* in Rosenberg, which is applied to the data in the FEC payload, is ***always given in the FEC header*** (Rosenberg, col. 3, lines 29 and 30). Clearly, therefore, Rosenberg does ***not*** teach "...including a header in the coding rate

of *one of the blocks*; and indicating the coding rate of a *subsequent* one or more of the blocks *using data contained in said one of the blocks*" (emphasis added). Chen does not overcome this deficiency. Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw the rejection of claim 1 under 35 U.S.C. § 103(a).

Each of claims 2-5 is likewise patentable over Rosenberg in view of Chen because each of claims 2-5 depends upon claim 1 or upon another claim depending upon claim 1 and because of the additional distinctive features of each of claims 2-5. Applicants therefore respectfully request that the Examiner reconsider and withdraw the rejection of claims 2-5 under 35 U.S.C. § 103(a).

With respect to claim 7, as discussed above, Rosenberg neither teaches nor describes "...said at least one block indicates the transmission scheme of at least one *other* of said blocks" (emphasis added). Chen does not overcome this deficiency. Applicants therefore respectfully request that the Examiner reconsider and withdraw the rejection of claim 7 under 35 U.S.C. § 103(a).

The Examiner additionally rejected claims 10 and 11 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Mantha in view of U.S. Patent Application No. 09/838,810 to Struhsaker et al. (hereinafter "Struhsaker"). Applicants respectfully traverse these rejections.

As Applicants discussed in the remarks to the Examiner's 35 U.S.C. § 102(b) rejections of claims 8 and 9, Mantha does not disclose the claimed elements. In particular, Mantha does not disclose "...so as to match the capabilities of the *least*

capable of the receivers..." Struhsaker does not overcome this deficiency.

Applicants therefore respectfully request that the Examiner reconsider and withdraw the rejection of claim 10 under 35 U.S.C. § 103(a).

Claim 11 is likewise patentable over Mantha in view of Struhsaker because claim 11 depends upon claim 10 and because of the additional distinctive features of claim 11. Applicants therefore respectfully request that the Examiner reconsider and withdraw the rejection of claim 11 under 35 U.S.C. § 103(a).

The Examiner further rejected claims 12 and 13 under 35 U.S.C. § 103(a) as being allegedly unpatentable over European Patent Application No. EP 1 158 699 A2 to TRW, Inc. (hereinafter "TRW") in view of WIPO Publication No. WO 99/49592 to Vistar Telecommunications, Inc. (hereinafter "Vistar"). Applicants respectfully traverse these rejections.

The Examiner contends:

Vistar discloses a wireless system in which incoming packets are buffered and then mixed with one or more digital subcarriers [i.e. bearers], depending on the data rate (i.e. assigning packets addressed to ones of the receivers having similar receiving capabilities onto the same one of said bearers), and the subcarriers combined into a baseband signal (Page 6, lines 25-27).

Vistar, however, does not teach all of the claimed elements. In particular, Vistar does not teach "...identifying the receiving capabilities of the wireless receivers..." Additionally, Vistar does not teach "...assigning packets addressed to ones of the receivers having similar receiving capabilities..." In Vistar, incoming data packets are mixed with one or more digital subcarriers, *depending on the data rate* (page 6, lines 25-27). In contrast, in the present invention, the packets are

assigned to "ones of the receivers having *similar receiving capabilities*" rather than being assigned based on the data rate. TRW does not overcome these deficiencies. Therefore, claim 12 is patentable over TRW in view of Vistar. Claim 13 contains similar language to claim 12, and therefore claim 13 is likewise patentable over TRW in view of Vistar for the same reasons that claim 12 is patentable over TRW in view of Vistar.

Applicants therefore respectfully request that the Examiner reconsider and withdraw the rejection of claims 12 and 13 under 35 U.S.C. § 103(a).

The Examiner rejected claims 14-20 under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent No. 6,697,642 B1 to Thomas (hereinafter "Thomas"). Applicants respectfully traverse this rejection.

Without acquiescing to the propriety of the rejection, Applicants have amended claims 14-20 for other reasons and to expedite prosecution. Claims 14-20 now depend upon claim 1 or on another claim depending upon claim 1 and are now patentable for the same reason that claim 1 is patentable. Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw the rejection of claims 14-20 under 35 U.S.C. § 103(a).

Other Matters

Claim Objection under 37 C.F.R. 1.75(c)

The Office Action objected to claims 4, 6, and 18-22 under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim cannot depend from another multiple dependent claim. Claims 4, 6, 18-20, and 22 have now been amended to be in proper form. Claims 21 and 22 have been canceled for other reasons. Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw the objection to claims 4, 6, and 18-20 under 37 C.F.R. 1.75(c).

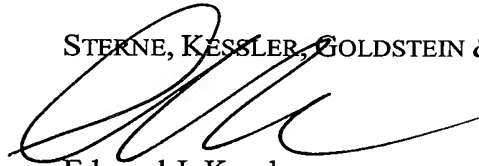
Conclusion

All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding objections and rejections and that they be withdrawn. Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment and Reply is
respectfully requested.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.

A handwritten signature in black ink, appearing to be 'E. Kessler', written over the firm name.

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